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NOTES AND DISCUSSIONS

ON CICERO *DE DIVINATIONE* i. 80

Mr. Pease's proposal (*Classical Philology*, XIII [April, 1918], 211) to move *mentis* away from *sensu* seems unquestionably correct. But it should be put between *eum* and *vis quaedam*. The "homoeographon" *mentis vis* was the cause of the omission of the word which was subsequently restored to the text but not to its right place.

J. P. POSTGATE

LIVERPOOL

THE STATUS OF CALLISTRATUS IN THE LITIGATION OVER THE ESTATE OF CONON [DEMOSTHENES], xlviii. 31, 43 ff.

In *Callistratus v. Olympiodorus* suit is brought for the moiety of an estate, left by one Conon, which has been adjudged to the present defendant. The plaintiff's account of the circumstances which led up to the suit is as follows: In the *διαδικασία*, which resulted in the judgment, both Callistratus and Olympiodorus had filed claims, separately, the former for half of the estate, the latter for the whole. Olympiodorus succeeded in establishing his title through fraud, with the connivance and actual co-operation of Callistratus. Subsequently he refused to carry out an agreement by which the two were to share equally whatever property or moneys either might secure from the estate. The present action seeks to enforce fulfilment of this agreement.¹ In the plaintiff's account of the proceedings before the court in this *διαδικασία* are found the following statements: (31) *καὶ οὕτως Ὀλυμπιόδωρος ἡγωνίζετο πρῶτος, καὶ ἔλεγεν ὅτι ἐβούλετο, καὶ μαρτυρίας παρείχετο ὥς εἰδοίκε τούτω· κἀγὼ ὦ ἄνδρες δικασταὶ σιωπῇ ἐκαθήμην ἐπὶ τοῦ ἐτέρου βήματος.* (44) *κἀγὼ οὐδ' ὅτιοῦν ἀντέλεγον τοῖσι, οὐδ' ἤκουσέ μου φωνῇ οὐδεὶς ἀνθρώπων, ὅτε οὗτος ἡγωνίζετο, οὔτε μικρὰν οὔτε μεγάλην, ἀλλὰ προσωμολόγουν ἀληθῆ εἶναι πάνθ' ὅσα οὗτος ἡβούλετο λέγειν.* The problem here is to determine the status of Callistratus in the *διαδικασία*. Was he at the time of the hearing a party to the suit?

¹ For the details of the case and the interpretations here discussed, see Schaefer, *Demosthenes und seine Zeit*, III (Leipzig, 1858), 236 ff.; Kennedy, *The Orations of Demosthenes*, IV (London, 1880), 366 ff.; V (1878), 100 ff.; Bonner, *Evidence in Athenian Courts* (Chicago, 1905), pp. 89-90; Leisi, *Der Zeuge im Attischen Recht* (Frauenfeld, 1908), p. 120, n. 2; Lipsius, *Das Attische Recht*, II (Leipzig, 1912), 782, n. 16 *fin.*